

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**AIR PRODUCTS AND CHEMICALS, INC.**

**and**

**Case 12-CA-181263**

**MICHAEL MEAD**

**ORDER**

The Employer's petition to revoke subpoena duces tecum B-1-TM4WRR is denied. The subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations.<sup>1</sup> Further, the

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<sup>1</sup> To the extent that the subpoena encompasses some documents that the Employer has already produced, those documents need not be produced again, provided that the Employer accurately describes which documents under subpoena they have already provided, states whether those previously-supplied documents constitute all of the requested documents, and provides all of the information that was subpoenaed.

Further, to the extent that the subpoena encompasses some documents that the Employer believes in good faith to be subject to the attorney-client privilege or the attorney work product doctrine, this Order is without prejudice to the Petitioner's prompt submission of a privilege log to the Region identifying and describing each such document, and providing sufficient detail to permit an assessment of the Petitioner's claim of privilege or protection. The Petitioner is directed to produce all responsive documents in its possession not subject to any good-faith claim of privilege or protection (except to the extent that the Petitioner has already produced such documents, and accurately describes this in the manner described in the preceding paragraph).

Member Miscimarra notes that par. 9 of the subpoena requests "[a]ll employee handbooks or policy guidelines which were issued and/or in effect during the period from January 1, 2014 to the present, and documents as will show the dates when each handbook was issued and/or in effect" and that par. 10 requests "[a]ll work rules, employee handbooks ... and other documents that ... relate to Employer policies regarding the issues described below [in subparts "a" through "j"]", and which were issued and/or in effect at the Employer's facility during all or any portion of the period from January 1, 2014 to the present, and documents as will show the date(s) when those policies were issued, implemented and/or in effect." Member Miscimarra would grant the petition to revoke as to these requests, except for those handbook provisions

Employer has failed to establish any other legal basis for revoking the subpoena. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., December 22, 2016.

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

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that reasonably relate to the issues described in subparts “a” through “j” in par. 10, or to the particular employee actions or reasons identified by the Employer as resulting in the discharge at issue in the instant case. See *Allied Waste Services of Massachusetts, LLC*, Cases 01-CA-123082, -126843 (Dec. 31, 2014). With regard to requests pertaining to “all employees,” Member Miscimarra would also grant the petition to revoke to the extent that the requests encompass non-statutory employees. See *Interstate Distributor Co.*, Case 12-CA-172986 (Sept. 16, 2016).